



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF)
NORVERGENCE, INC. FOR AUTHORITY TO PROVIDE)
LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES THROUGHOUT)
THE STATE OF NEW JERSEY)

ORDER

DOCKET NO. TE03040292

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N. J. S. A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated April 15, 2003, NorVergence, Inc. ("Petitioner" or "NorVergence") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide competitive facilities-based local exchange and interexchange telecommunications services in the State of New Jersey. Pursuant to the Open Public Records Act N.J.S.A. 47:1A-1 et seq., Petitioner has submitted its financial information under seal and has included a sworn affidavit with substantiation for confidential treatment in order to limit the availability of proprietary information. NorVergence has also filed a Motion for a Protective Order to limit the availability of proprietary information with the Board.

NorVergence is a privately held corporation organized under the laws of the State of New Jersey. Sumner Avenue Trust, the principal owner, owns 76.23% and the remaining owners each own less than 5% of NorVergence. Petitioner's principal offices are located at 550 Broad Street, 3rd Floor, Newark, New Jersey 07102.

Petitioner has submitted copies of its Certificate of Incorporation from the State of New Jersey. According to the Petition, NorVergence was formed to provide competitive facilities-based local exchange and interexchange telecommunications services throughout New Jersey. Petitioner states that it is currently offering resold long distance and local exchange services in New Jersey. Petitioner has applications for authority pending in Illinois, New York and Oregon. Petitioner further states that it has been granted similar authority in Massachusetts, Montana and Wisconsin and, it intends to apply for certification to provide resold and facilities-based local exchange and interexchange service in the contiguous 48 states. According to the Petition,

NorVergence has not been denied authority or had its authority revoked or suspended in any jurisdiction. The Petitioner further states that it has not had any complaints or judgments levied against it in any other jurisdiction, nor has it been the subject of any criminal or civil investigation related to the delivery of telecommunications services.

In its Petition, the Company seeks authority to provide competitive facilities-based local exchange and interexchange telecommunications services to commercial subscribers. According to the Petitioner, NorVergence initially plans to offer services to small and medium business customers located in the Verizon – New Jersey territory within New Jersey. Petitioner states that its facilities will consist of Unbundled Network Elements leased or purchased from a facilities-based New Jersey certificated provider. Petitioner further states that it initially expects to utilize the Unbundled Network Element Platform and as economic and regulatory conditions permit or require, it anticipates migrating customers to Unbundled Network Elements Loops. NorVergence expects to offer local services, both as a stand-alone product and as part of a bundle, with resold long distance, internet access and other telecommunications services. According to the Petitioner, all complaints and customer service issues will be referred to the NorVergence's Customer Service Department and its customer service representatives are available Monday-Friday 8:30 AM – 5:30 PM. Petitioner has also provided a toll-free number for its customer service office.

Petitioner requests a waiver of N. J. A. C. 14:1-4.3 which require that books and records be maintained in accordance with the Uniform System of Accounts ("USOA"). In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, NorVergence states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to NorVergence, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N. J. S. A. 48:2-21.16(a)(4); N. J. S. A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed NorVergence's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey subject to approval of its tariff. The Board also FINDS that in accordance with N. J. S. A. 48:2-59 and 48:2-60 and N. J. S. A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is approved by the Board.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N. J. S. A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N. J. S. A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1st of each year, the Petitioner will receive from the Division of Audits, an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form is due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records in accordance with USOA. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and

records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA.

DATED: 7/9/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)
KRISTI IZZO
SECRETARY

IN THE MATTER OF THE VERIFIED PETITION OF NORVERGENCE, INC.
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTER-
EXCHANGE TELECOMMUNICATIONS SERVICES
THROUGHOUT THE STATE OF NEW JERSEY

DOCKET NO. TE03040292

SERVICE LIST

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